

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1351-PST-E **TCEQ ID:** RN104793286 **CASE NO.:** 34518
RESPONDENT NAME: First County, Inc. dba Texan Food Mart

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Texan Food Mart, 101 County Line Road, Willis, Montgomery County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Philip DeFrancesco, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5933; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Amin Maredia, President, First County, Inc. , 5615 Richmond Avenue, Suite 230, Houston, Texas 77057 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 10, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 15, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Three violations were documented.</p> <p>WASTE</p> <p>1) Failed to provide proper release detection for the piping associated with the underground storage tank ("UST") system. Specifically, the annual piping tightness test had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>2) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475(a)].</p> <p>3) Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$4,470</p> <p>Total Deferred: \$894 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,576</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Successfully conducted annual testing of the Stage II equipment on July 23, 2007; and</p> <p>b. Successfully tested the line leak detectors for performance and operational reliability and conducted annual piping tightness tests on July 23, 2007.</p>

Additional ID No(s): PST 77667



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ
DATES

Assigned 14-Aug-2007
PCW 4-Oct-2007

Screening 21-Aug-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent First County, Inc. dba Texan Food Mart
Reg. Ent. Ref. No. RN104793286
Facility/Site Region 12-Houston

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 34518
Docket No. 2007-1351-PST-E
Media Program(s) Petroleum Storage Tank
Multi-Media
Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 2
Order Type 1660
Enf. Coordinator Philip DeFrancesco
EC's Team Enforcement Team 6

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 \$0

Notes No adjustment due to compliance history.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5 \$1,250

Before NOV NOV to EDRP/Settlement Offer

Extraordinary
Ordinary X
N/A (mark with x)

Notes The Respondent came into compliance on July 23, 2007.

Total EB Amounts \$790
Approx. Cost of Compliance \$720
0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$3,750

OTHER FACTORS AS JUSTICE MAY REQUIRE

19%

Adjustment \$720

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost associated with the violation.

Final Penalty Amount \$4,470

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$4,470

DEFERRAL

20%

Reduction

Adjustment -\$894

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

\$3,576

Screening Date 21-Aug-2007

Docket No. 2007-1351-PST-E

PCW

Respondent First County, Inc. dba Texan Food Mart

Policy Revision 2 (September 2002)

Case ID No. 34518

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN104793286

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 21-Aug-2007		Docket No. 2007-1351-PST-E		PCW																			
Respondent First County, Inc. dba Texan Food Mart				<i>Policy Revision 2 (September 2002)</i>																			
Case ID No. 34518				<i>PCW Revision September 19, 2007</i>																			
Reg. Ent. Reference No. RN104793286																							
Media [Statute] Petroleum Storage Tank																							
Enf. Coordinator Philip DeFrancesco																							
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																					
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.50(b)(2), (b)(2)(A)(i)(III), and Tex. Water Code § 26.3475(a)</div>																					
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to provide proper release detection for the piping associated with the UST system. Specifically, the annual piping tightness test had not been conducted. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.</div>																					
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>																			
>> Environmental, Property and Human Health Matrix																							
OR	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td rowspan="2" style="vertical-align: middle;">Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">25%</div></td> </tr> <tr> <td>Potential</td> <td style="text-align: center;">x</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm				Release	Major	Moderate	Minor		Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">25%</div>	Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
		Harm																					
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Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																				
>> Programmatic Matrix																							
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		Major	Moderate	Minor																			
	Falsification	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>																		
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Matrix Notes		<div style="border: 1px solid black; padding: 5px;">Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>																					
Adjustment				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$7,500</div>																			
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>																			
Violation Events																							
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>	<div style="border: 1px solid black; padding: 2px; text-align: center;">365</div>	Number of violation days																			
mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>																				
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	annual	x																					
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
One annual event is recommended for the 12-month period preceeding the July 10, 2007 investigation.																							
Economic Benefit (EB) for this violation			Statutory Limit Test																				
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$269</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,235</div>																				
			This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,235</div>																				

Economic Benefit Worksheet

Respondent: First County, Inc. dba Texan Food Mart
Case ID No. 34518
Reg. Ent. Reference No. RN104793286
Media: Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$245	10-Jul-2006	23-Jul-2007	2.0	\$24	\$245	\$269
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost as per receipt submitted by the Respondent of conducting annual line leak detector and piping tightness tests. The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance \$245

TOTAL \$269

Screening Date 21-Aug-2007

Docket No. 2007-1351-PST-E

PCW

Respondent First County, Inc. dba Texan Food Mart

Policy Revision 2 (September 2002)

Case ID No. 34518

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN104793286

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended for the 12-month period preceeding the July 10, 2007 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$521

Violation Final Penalty Total \$2,235

This violation Final Assessed Penalty (adjusted for limits) \$2,235

Economic Benefit Worksheet

Respondent First County, Inc. dba Texan Food Mart
Case ID No. 34518
Reg. Ent. Reference No. RN104793286
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$475	10-Jul-2006	23-Jul-2007	2.0	\$46	\$475	\$521
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost as per receipt submitted by the Respondent for annual testing to verify proper operation of the Stage II equipment. The Date Required is one year prior to the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance **\$475****TOTAL** **\$521**

Compliance History

Customer/Respondent/Owner-Operator:	CN602942443	First County, Inc.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104793286	TEXAN FOOD MART	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		77667
Location:	101 COUNTY LINE RD, WILLIS, TX, 77378		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 20, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 20, 2002 to August 20, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Philip DeFrancesco	Phone:	(817) 588-5933	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | |
|------------------------|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |
| | 1 08/14/2007 (567825) |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
| F. | Environmental audits. |
| | N/A |
| G. | Type of environmental management systems (EMSs). |
| | N/A |
| H. | Voluntary on-site compliance assessment dates. |
| | N/A |
| I. | Participation in a voluntary pollution reduction program. |
| | N/A |
| J. | Early compliance. |
| | N/A |
| Sites Outside of Texas | |
| | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FIRST COUNTY, INC. DBA TEXAN
FOOD MART
RN104793286**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1351-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding First County, Inc. dba Texan Food Mart ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 101 County Line Road in Willis, Montgomery County, Texas (the "Station").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 20, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

The first part of the report deals with the general situation of the country and the progress of the work during the year. It is followed by a detailed account of the various projects and the results achieved.

The second part of the report deals with the financial statement of the year. It shows the income and expenditure of the organization and the balance sheet at the end of the year.

The third part of the report deals with the administrative matters of the organization. It includes a list of the members of the organization and a list of the committees and sub-committees.

The fourth part of the report deals with the future plans of the organization. It includes a list of the projects to be undertaken in the next year and a list of the resources required for these projects.

The fifth part of the report deals with the conclusions of the year. It includes a list of the achievements of the organization and a list of the lessons learned from the experience.

The sixth part of the report deals with the appendices. It includes a list of the documents and reports referred to in the text and a list of the names of the persons who have contributed to the work.

The seventh part of the report deals with the index. It includes a list of the subjects and topics covered in the report and a list of the pages on which they are discussed.

6. An administrative penalty in the amount of Four Thousand Four Hundred Seventy Dollars (\$4,470) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Five Hundred Seventy-Six Dollars (\$3,576) of the administrative penalty and Eight Hundred Ninety-Four Dollars (\$894) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Successfully conducted annual testing of the Stage II equipment on July 23, 2007; and
 - b. Successfully tested the line leak detectors for performance and operational reliability and conducted annual piping tightness tests on July 23, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to provide proper release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 10, 2007. Specifically, the annual piping tightness test had not been conducted.
2. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 10, 2007.

3. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 10, 2007. Specifically, the Stage II annual system compliance testing had not been conducted.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS


1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: First County, Inc. dba Texan Food Mart, Docket No. 2007-1351-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director


Date 1/21/2008

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 11-22-07

Name (Printed or typed)
Authorized Representative of
First County, Inc. dba Texan Food Mart

Title Pres

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

